

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Thomas Juliano	Team: Squad #6	CCRB Case #: 201901580	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 08/24/2018 10:45 AM	Location of Incident: § 87(2)(b) 32nd Precinct stationhouse	Precinct: 32	18 Mo. SOL 2/24/2020	EO SOL 2/24/2020	
Date/Time CV Reported Fri, 02/15/2019 5:07 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Fri, 02/15/2019 5:07 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DTS Joseph Rivera	00647	939321	1ST D.C
2. DT3 Jorge Morban	05794	922828	032 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT2 Tiffany Jeffries	623	941956	DB CEIS
2. DT3 Christopher Healy	4546	946490	WARRSEC
3. LCD James Leo	00000	921493	032 DET

Officer(s)	Allegation	Investigator Recommendation
A.DTS Joseph Rivera	Abuse: Detective Joseph Rivera entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
B.DT3 Jorge Morban	Force: At the 32nd Precinct stationhouse, Detective Jorge Morban used a chokehold against § 87(2)(b)	§ 87(2)(b)

Case Summary

On February 15, 2019, § 87(2)(b) filed this complaint with the CCRB via letter. This case was placed on DA hold between July 11, 2019 and November 18, 2020.

On August 24, 2018, at approximately 10:45 a.m., Det. Joseph Rivera of the Warrant Section entered § 87(2)(b)'s apartment with an open I-card and placed him under arrest (**Allegation A: Abuse of Authority** – § 87(2)(g)). Det. Rivera brought § 87(2)(b) to the 32nd Precinct Detective's Squad where he placed § 87(2)(b) in the custody of Det. Tiffany Jeffries of the 32nd Precinct Detective's squad. § 87(2)(b) refused to be fingerprinted and Det. Jorge Morban of the 32nd Precinct Detective's Squad allegedly placed § 87(2)(b) in a chokehold to comply with the fingerprinting (**Allegation B: Force** – § 87(2)(g)). § 87(2)(b) was charged with robbery in the first degree (**Board Review 01**). § 87(2)(b)'s charges are pending trial.

There is no video evidence in this case. None of the officers were assigned BWC during this incident. Stationhouse surveillance footage was expired at the time this complaint was filed.

Findings and Recommendations

Allegation A – Abuse of Authority: Detective Joseph Rivera entered § 87(2)(b) in Manhattan.

On August 24, 2018, at approximately 10:45 a.m., § 87(2)(b) was in his home located in § 87(2)(b) with his mother, § 87(2)(b) and his two brothers, § 87(2)(b) and § 87(2)(b) in Manhattan when he heard a knock at the door. § 87(2)(b) spoke through the door but did not open it. A man on the other side of the door said that it was the police. § 87(2)(b) asked if they had a warrant and an officer said, "We're coming in, this isn't Law and Order." After speaking to the officers for approximately three minutes, § 87(2)(b) saw Det. Rivera on the fire escape, which was on the front of the building (**Board Review 17**). Det. Rivera removed the window air conditioner and entered the apartment through the window. § 87(2)(b) opened the front door and saw numerous officers in the hallway. The officers had a picture of § 87(2)(b) and when he opened the door, the officers said, "That's him. You're under arrest." The officers placed him in handcuffs and took him outside of the apartment building. The officers then dropped him off at the 32nd Precinct Detective's Squad (**Board Review 02**).

Attempts to contact § 87(2)(b) to clarify his testimony were unsuccessful as he was unresponsive (See IAs for contact attempts).

§ 87(2)(b)'s mother, § 87(2)(b) stated that she did not recall this incident (**Board Review 03**). § 87(2)(b) and § 87(2)(b) were unavailable to the investigation.

The I-Card for § 87(2)(b) created by Det. Jeffries of the 32nd Precinct Detective's Squad for probable cause to arrest for robbery in the first degree, lists § 87(2)(b)'s address as § 87(2)(b) in Manhattan. There was no active warrant for the location or § 87(2)(b) (**Board Review 04**).

The Warrant Section DD5s prepared by Det. Rivera state that Det. Rivera apprehended § 87(2)(b) after § 87(2)(b) attempted to escape from a window (**Board Review 05**).

The Warrant Section Movement Log does not list § 87(2)(b)'s address, as typically only the first address the officers go to for the day is listed. Det. Healey is the only officer listed as working with Det. Rivera (**Board Review 07**).

Det. Rivera did not recall this incident, nor did he recall which officers were at the incident location. Upon reviewing the DD5s he testified that he was the Warrant Squad investigator assigned to § 87(2)(b)'s I-Card and that he prepared the DD5s, though the documents did not refresh his recollection. Det. Rivera did not recall removing § 87(2)(b)'s window air condition unit or entering the apartment through the window but stated that it was not something he believed he would have done (**Board Review 06**).

Det. Healey had a memo book entry stating that he was at § 87(2)(b)'s residence on the incident date. However, he testified that he did not recall the incident nor which officers were at the incident location (**Board Review 08**).

Neither Det. Jeffries, Det. Morban, nor Lt. James Leo, all of the 32nd Precinct Detective's Squad, were present at § 87(2)(b)'s residence when he was apprehended.

Police are prohibited from making warrantless and nonconsensual entries into suspects' homes in order to make routine felony arrests Payton v. New York, 445 U.S. 573, (1979). (**Board Review 15**).

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Force: At the 32nd Precinct stationhouse, Detective Jorge Morban used a chokehold against § 87(2)(b)

It is undisputed that Det. Rivera and Det. Healey transported § 87(2)(b) to the 32nd Precinct stationhouse and placed him in the custody of Det. Jeffries. Det. Jeffries placed § 87(2)(b) in a holding cell within the Detective's Squad. When Det. Jeffries returned to fingerprint § 87(2)(b) she stated that she had to handcuff him to fingerprint him. § 87(2)(b) became upset that he was being charged with a crime. § 87(2)(b) argued with Det. Jeffries and resisted being handcuffed. Det. Morban and Lt. Leo then entered the cells to assist Det. Jeffries.

§ 87(2)(b) testified that after being told he would need to be fingerprinted, Det. Morban and Lt. Leo attempted to grab him at which point he attempted to evade the officers by stepping into the holding cell. Det. Jeffries, Det. Morban, and Lt. Leo followed § 87(2)(b) into the cell and grabbed him by his arms and chest. Det. Morban got behind § 87(2)(b) and wrapped one of his arms around the front of § 87(2)(b)'s neck and choked him for approximately one minute – though § 87(2)(b) did not recall if his breathing was restricted. As such an allegation of restricted breathing was not pleaded. The officers shouted at § 87(2)(b) to stop resisting even though he did not resist the officers. Lt. Leo ordered the officers to get off of § 87(2)(b) at which point the officers let go of him, exited the cell, and closed the door. § 87(2)(b) requested to go to the hospital as he was experiencing depression and anxiety. However, when EMS arrived, § 87(2)(b) declined medical treatment (**Board Review 02**).

Attempts to contact § 87(2)(b) to clarify his testimony were unsuccessful as he was unresponsive (See IAs for contact attempts).

Det. Morban testified that Det. Jeffries grabbed § 87(2)(b)'s arms to handcuff him. In response § 87(2)(b) tensed his arms to prevent Det. Jeffries from pulling his arms behind his back. Det. Jeffries ordered § 87(2)(b) to turn around and let her (Det. Jeffries) handcuff him. Det. Morban and Lt. Leo assisted Det. Jeffries by grabbing § 87(2)(b)'s arms and attempted to pull his arms behind his back. § 87(2)(b) tensed his arms to prevent the officers from doing so and used his body weight to push into the officers. The officers did not use any additional force besides pulling on § 87(2)(b)'s arms. Det. Morban, alone, grabbed § 87(2)(b) with both hands by his arms near his elbows and walked while pushing § 87(2)(b) back into the cell. Det. Morban intended to push § 87(2)(b) against a cell wall face first to handcuff him. However, § 87(2)(b) turned around to face Det. Morban prior to getting to the wall. Det. Morban did not recall holding § 87(2)(b) anywhere on his body besides his arms. Before Det. Morban could attempt to turn § 87(2)(b) back around an officer, either Lt. Leo or Det. Jeffries, tapped Det. Morban. Det. Morban understood the tap to mean to exit the cell. Det. Morban did not recall if Lt. Leo told him to get off of § 87(2)(b) or if anything was said to him. Det. Morban exited the cell and closed the cell door. Det. Morban was in the cell for approximately 15 seconds. Det. Morban did not place his arm around § 87(2)(b)'s neck, nor did he place him in a chokehold (**Board Review 09**).

Both Det. Jeffries and Lt. Leo's statements were consistent with Det. Morban's testimony. Both officers stated that Det. Morban did not place § 87(2)(b) into a chokehold or come into contact with his neck. Both officers testified that Det. Morban used no force beyond pulling § 87(2)(b)'s arms behind his back and pushing him into the cell. Lt. Leo testified that he did not order Det. Morban to get off of § 87(2)(b) (**Board Review 10, 11**).

The 32nd Precinct Detective's Squad Prisoner Holding Pen Roster lists § 87(2)(b) as the only prisoner in the cells during the incident (**Board Review 16**).

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 12**).
- Det. Morban has been a member-of-service for 22 years and has been a subject in two additional CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)
- Det. Rivera has been a member-of-service for 14 years and has been a subject in 17 additional CCRB complaints, and 41 allegations, none of which have been substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation.
- As of June 1, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (**Board Review 13**).

§ 87(2)(b)

(Board Review 14).

Squad No.: 06

Investigator: Inv. Thomas Juliano Inv. Juliano 3/19/2021
Signature Print Title & Name Date

Squad Leader: Jessica Peña IM Jessica Peña 4/7/2021
Signature Print Title & Name Date